

## Clearinghouse Rule 13-050

### PROPOSED ORDER OF THE WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD AMENDING RULE RELATING TO FACILITY DEVELOPMENT PROCEDURES

The Wisconsin Technical College System Board proposes an order to amend TCS 5 relating to Facility Development Procedures. The scope statement for this rule, SS 033-13, was approved by the Governor on March 27, 2013, and published in Register No. 688 on April 14, 2013.

#### **ANALYSIS PREPARED BY THE WISCONSIN TECHNICAL COLLEGE SYSTEM BOARD**

1. **Statutes interpreted:** Wis. Stats. § 38.04 (10)
2. **Statutory authority:** Wis. Stats. § 38.04 (10)
3. **Explanation of agency authority:** Wis. Stats. § 38.04 (10), Stats., states that the technical college system board shall review and approve any proposals by district boards for land acquisition, additional or new facilities, rentals or remodeling of existing facilities.
4. **Related statute or rule:** Wis. Stats. § 38.15
5. **Plain language analysis:** The Wisconsin Technical College System (WTCS) recently reviewed the Facility Development Procedures contained in Chapter TCS 5 of the Wis. Admin. Code to ensure that the process is efficient for both the System and its colleges while maintaining a high quality process that supports the statutory responsibilities of the WTCS Board. The proposed modifications to the code will eliminate redundancy within the process, steps that are no longer required, information that is already available to the WTCS, and information that is not available at the time of facility approval. In addition, the definitions of both minor remodeling and minor rentals have not been updated since the 1980's and the proposed modifications take into account inflation, more closely aligns rentals to other procurement standards, and allows the WTCS to focus on larger more complicated projects.
6. **Summary of, and comparison with, existing or proposed federal regulations:** There are no federal rules regarding technical college facility development procedures.
7. **Comparison with rules in adjacent states:** Not applicable.
8. **Summary of factual data and analytical methodologies:** Not applicable.
9. **Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report:** Not applicable.

10. **Effect on small business:** None

11. **Agency contact person:** James Zylstra, Executive Vice President, Wisconsin Technical College System, 4622 University Avenue, P.O. Box 7874, Madison, Wisconsin 53707-7874, telephone (608) 266-1739, e-mail [james.zylstra@wtcssystem.edu](mailto:james.zylstra@wtcssystem.edu).

12. **Place where comments are to be submitted and deadline for submission:**  
Comments may be submitted to the agency contact person listed above. The deadline for comments is **August 1, 2013**. A public hearing will be scheduled.

## TEXT OF RULE

**SECTION 1. TCS 5.04 (1)(b), (1)(e)(2) and (4), (2)(b), (2)(d)(3) and (5), (2)(j), (2)(k), (3)(b), (3)(d)(2) and(4), (4)(b), (4)(d)(2) and (4), (4)(i), and (4)(j) are amended to read:**

**TCS 5.04 Contents of submittal. (1) LAND ACQUISITION.** A district board shall submit the following information relative to proposals for land acquisition for evaluation by the board:

- (a) A resolution of the district board approving the land acquisition contingent upon board approval.  
~~(b) A resolution of the district board requesting board approval for land acquisition.~~
- (c) Evidence of compliance with s. 1.11, Stats.
- (d) A copy of a certified land survey indicating the boundaries and legal description of the land to be acquired.
- (e) A report relating programmatic and student requirements, and the needs of business and industry, to the need for land acquisition. The report shall include data indicating the need for land acquisition based upon:
  1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.
  - ~~2. An analysis of changing and emerging technologies within the district.~~
  3. An analysis of available student stations, and the need for additional student stations, including consideration of the needs of persons with handicaps.
  4. ~~Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.~~
- (f) A statement of the costs to be incurred for the land acquisition, including survey and legal fees.
- (g) A statement indicating the availability and specific source of funds for the land acquisition.
- (2) ADDITIONAL AND NEW FACILITIES.** A district board shall submit the following information relative to proposal for additional or new facilities for evaluation by the board:
  - (a) A resolution of the district board approving the additional or new facilities.  
~~(b) A resolution of the district board requesting board approval for additional or new facilities.~~
  - (c) Evidence of compliance with s. 1.11, Stats.
  - (d) A report relating programmatic and student station requirements, and the needs of business and industry, to the need for additional or new facilities. The report shall include data indicating the need for additional or new facilities based upon:
    1. An analysis that considers the joint use of facilities as required under s. 20.901 (4), Stats.
    2. An analysis of needs of business and industry for persons with new skills and persons with updated skills.
    - ~~3. An analysis of changing and emerging technologies within the district.~~
    4. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.
    5. ~~Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.~~
  - (e) Educational specifications relating specific space requirements for approved programs to the need for additional or new facilities.
  - (f) An analysis of the fiscal impact of additional or new facilities on the district's operating budget, including availability and specific source of funds as required under s. TCS 5.05.
  - (g) A conceptual sketch of the proposed additional or new facilities.
  - (h) The estimated project cost by the following categories:
    1. General construction
    2. Heating, ventilating and air-conditioning
    3. Electrical
    4. Plumbing
    5. Other contracts
    6. Equipment, both fixed and movable
    7. Miscellaneous costs
    8. Fees
  - (i) A copy of the district energy study analysis indicating compliance with s. 1.12, Stats.

~~(j) A list of the various sources of building energy available and a plan for performing a life cycle costs analysis for an alternate form of energy.~~

~~(k) A plan for performing a life cycle costs analysis for the structural frame, building skin and the total energy system, including the HVAC system, electrical system and plumbing system to satisfy the requirements under s. 1.12, Stats.~~

(3) RENTALS. Except as provided under s. TCS 5.09 (2), a district board shall submit the following information relative to proposals for rentals for evaluation by the board:

(a) A resolution of the district board approving the lease contingent upon board approval.

~~(b) A resolution of the district board requesting board approval of the lease.~~

(c) A copy of the proposed lease as reviewed by the district's legal counsel.

(d) A report relating programmatic and student requirements, and the needs of business and industry, to the need for the rental. The report shall include data indicating the need for the rental based upon:

1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.

~~2. An analysis of changing and emerging technologies within the district.~~

3. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.

4. ~~Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.~~

(e) An analysis of the fiscal impact of the rental on the district's budget, including the availability and specific source of funds as required under s. TCS 5.05.

(4) REMODELING. Except as provided under s. TCS 5.09 (1), a district board shall submit the following data relative to proposals for remodeling existing facilities for evaluation by the board:

(a) A resolution of the district board approving the remodeling of existing facilities.

~~(b) A resolution of the district board requesting board approval of the remodeling of existing facilities.~~

(c) Evidence of compliance with s. 1.11, Stats.

(d) A report relating programmatic and student requirements, and the needs of business and industry, to the need for remodeling of existing facilities. The report shall include data indicating the need for remodeling of existing facilities based upon:

1. An analysis of the needs of business and industry for persons with new skills and persons with updated skills.

~~2. An analysis of changing and emerging technologies within the district.~~

3. An analysis of available student stations, and the need for additional student stations, including a consideration of the needs of persons with handicaps.

4. ~~Relevant Enrollment trends for the district, including placement data for all program areas and the program area to be expanded.~~

(e) Educational specifications relating specific space requirements for approved programs to the need for remodeling of existing facilities.

(f) An analysis of the fiscal impact of the remodeling of existing facilities on the district's budget, including the availability and specific source of funds as required under s. TCS 5.05.

(g) A conceptual sketch of the remodeling.

(h) The estimated project cost by the following categories:

1. General construction

2. Heating, ventilating and air-conditioning

3. Electrical

4. Plumbing

5. Other contracts

6. Equipment, both fixed and movable

7. Miscellaneous costs

8. Fees

~~(i) A list of the various sources of building energy available and a plan for performing a life cycle costs analysis for an alternate form of energy.~~ A copy of the district energy study analysis indicating compliance with the requirements under s. 1.12, Stats.

~~(j) A plan for performing a life cycle costs analysis for the building skin and the total energy system, including the HVAC system, electrical system and plumbing system to satisfy the requirements under s. 1.12, Stats.~~

**SECTION 2. TCS 5.05 (3) is amended to read:**

**TCS 5.05 Fiscal impact.** The analysis of the fiscal impact of additional or new facilities, rentals and remodeling of existing facilities submitted to the board under s. TCS 5.04 (2) (f), (3) (e) and (4) (f) shall include:

(1) Data relative to increased instructional costs, increased administrative, maintenance and energy costs and costs for new or replacement equipment resulting from the additional or new facilities, rentals or remodeling of existing facilities.

(2) A list of the source of funds in substantially the following form:

(a) Tax levy – FY \_\_\_\_\_

(b) Fund transfer or reserve fund \_\_\_\_\_

(c) Proposed sale of bonds or notes \_\_\_\_\_

(d) Other funds:

1. Federal funds \_\_\_\_\_

2. Gifts or grants \_\_\_\_\_

(e) Total funds \_\_\_\_\_

~~(3) A statement of compliance with ss. 38.15 and 67.12 (12), Stats., if applicable.~~

**SECTION 3: TCS 5.06 is amended to read:**

**TCS 5.06 Notification of review.** The director shall notify the district board at least 14.7 days prior to board review of the proposals for land acquisition, additional or new facilities, rentals or remodeling of existing facilities of the director's recommendation to the board and the rationale for the recommendation. The district board or its designee may appear before the board to submit any data or information in support of the district board's proposal.

**SECTION 4: TCS 5:09 (1) and (2) are amended to read:**

**TCS 5.09 Exclusion of minor remodeling and minor rentals.** (1) Remodeling of existing facilities where project costs for a fiscal year do not exceed ~~\$30,000~~ 100,000 per single campus site, as determined by the board under s. TCS 7.07 (6), are considered minor remodeling and are exempt from board review and approval under s. 38.04 (10) (a), Stats., and this chapter.

(2) Rentals ~~to provide community service programs of \$50,000 or less and~~ where the term of the lease is three years or less ~~less than one year and the property is leased from the state, or from a city, village, town, county or school district~~ are considered minor rentals and are exempt from approval under s. 38.04 (10) (a), Stats., and this chapter.

Dated this 25th day of June, 2013.

Wisconsin Technical College System Board



Morna K. Foy, President

Wisconsin Technical College System